

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,

V.

CA. NO. 04-1350 (GMS)

DR. SYLVIA FOSTER, ET AL.

MOTION FOR ORDER COMPELLING  
DISCOVERY PURSUANT TO RULE 37

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BD Scanned

DATE: 12/20/06

*Jimmie Lewis*  
SBI #506622  
DEL. CORR. CENTER  
1181 PADDOCK RD  
SMYRNA, DE 19977

- 1.) ON SEPT 27, 2006 THIS HONORABLE COURT FINDING GOOD CAUSE SHOWN, GRANTED THE DEFENDANTS DR. SYLVIA FOSTER'S MOTION FOR PROTECTIVE ORDER PURSUANT TO RULE 16, WITH THE CLAUSE THAT THE DEFENDANT DR. SYLVIA FOSTER SHALL RESPOND TO DISCOVERY, INTERROGATORIES AND REQUEST FOR ADMISSION PROPERLY FILED BY PLAINTIFF WITHIN THE DISCOVERY PERIOD PREVIOUSLY SET FORTH BY THE COURT'S SCHEDULING ORDER, DATED JULY 28, 2006.  
(SEE SAID ORDER'S ATTACHED AS EXHIBIT)
- 2.) THE PLAINTIFF HAS GIVEN REASONABLE NOTICE BY WAY OF PROPERLY FILING MOTIONS #'S, II, III, IV, V, VI, AND VII, BUT DEFENDANT DR. SYLVIA FOSTER HAS NOT ADHERED TO SAID DISCOVERY REQUEST DI. 85, DI 86, DI. 87, DI 91, DI 95, DI 99.  
(SEE ATTACHED CIVIL DOCKET SHEET)
- 3.) FOR THE STATED REASONS THE PLAINTIFF REQUEST TO BE GRANTED AN ORDER COMPELLING SAID DISCOVERY. BEFORE JAN 29, 07.

4.) SAID DISCOVERY REQUEST ARE JUDICIALLY  
RELEVANT TO THE FACT FINDING PROCESS, TO RELIEF  
SOUGHT VIA PRELIMINARY INJUNCTION, TO THE  
PLAINTIFF FORTH COMING MOTION FOR DECLATORY  
JUDGEMENT REGARDING DR. SYLVIA FOSTER'S  
PSYCH REPORT.

## CERTIFICATE OF SERVICE

I, THE UNDERSIGNED PLAINTIFF JIMMIE LEWIS PRO-SE  
DUE HEREBY CERTIFY ON THIS 20TH, DAY OF DEC,  
2006, THAT I DID MAIL BY U.S. POSTAL ONE TRUE AND  
CORRECT COPY OF THE PLAINTIFF'S MOTION FOR ORDER  
COMPELLING DISCOVERY PURSUANT TO RULE 37,  
TO EACH OF THE FOLLOWING:

CLERK OF THE COURT (GMS)  
UNITED STATES DISTRICT COURT  
J. CALEB BOGGS FEDERAL BUILDING  
844 N. KINGST, LOCKBOX 18  
WILMINGTON, DELAWARE 19801

CAROL J. ANTUFF  
1001 JEFFERSON PLAZA, SUITE 202  
WILMINGTON, DELAWARE 19801

DATE: 12/20/06

*Jimmie Lewis*  
SBI # 506622  
DEL. CORR. CENTER  
1181 PADDOCK RD  
SMYRNA, DE 19977

72

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS

*Pro Se* Plaintiff

v.

DR. SYLVIA FOSTER, et al.

Defendants

Civil Action No. 04-1350 GMS

SCHEDULING ORDER

At Wilmington this 28<sup>th</sup> day of July 2006, pursuant to Fed.R.Civ.P. 16 and D.Del.L.R. 16.2;

IT IS ORDERED that:

1. **Joinder of other Parties and Amendment of Pleadings.** All motions to join other parties and amend the pleadings shall be filed on or before September 28, 2006.
2. **Discovery.** All discovery shall be initiated so that it will be completed on or before January 29, 2007.
3. **Application by Motion.** Any application to the Court shall be by written motion filed with the Clerk.
4. The parties shall not send or deliver any correspondence to Chambers. All correspondence and pleadings must be filed directly with the Clerk of the Court. It shall be the responsibility of the parties to inform the court of any change of address.
5. **Summary Judgment Motions.** All summary judgment motions, with accompanying briefs and affidavits, if any, shall be served and filed on or before March 1, 2007. The Answering

brief shall be filed on or before March 15, 2007, and the Reply brief due on or before March 29, 2007.

6. **Scheduling**. The parties shall direct any requests or questions regarding the scheduling and management of this matter to chambers at (302) 573-6470.

Any request for extensions of time as set forth in this Scheduling Order must be made no later than twenty-one days prior to the expiration of time.



UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,	)	
	)	
Plaintiff,	)	C.A. No.: 04-1350 (GMS)
	)	
v.	)	
	)	
SYLVIA FOSTER, KATHYRN	)	
SHENEMAN, MICHAEL TALMO,	)	
DIANE STACHOWSKI, HELEN	)	
HANLON, MARGERET WILSON,	)	
MALE NURSE, DONNA LAWRENCE,	)	
GLORIA BANKS, FLORENCE SCOTT	)	
COBB, LANCE SAPERS, DAVE	)	
MOFFITT, R. GRAY, C. OATS, ROSE	)	
ARES, PAT RILEY, DR. OVRESHI,	)	
CURTIS CORNISH, KAREN	)	
CHAMBERLIN, SEGAL J., TANYA	)	
WILSON, J. CONYER, MR. JOHNSON,	)	
JOHN JOE,	)	
	)	
Defendants.	)	

**DEFENDANT DR. SYLVIA FOSTER'S MOTION FOR PROTECTIVE ORDER**

COME NOW, Defendant, Dr. Sylvia Foster, by the undersigned and hereby moves this Honorable Court for a protective order pursuant to Federal Rule of Civil Procedure 26(c). In support of this Motion, Defendant offers the following:

1. Plaintiff, Jimmie Lewis, is an inmate in the custody of the Department of Correction ("DOC") presently incarcerated at the Delaware Correctional Center ("DCC") in Smyrna, Delaware.
2. On August 9, 2006, Lewis filed a Motion to Depose Defendants and Witnesses. In this motion, Lewis seeks to depose the five named Defendants, as well as 14 additional witnesses, on October 11, 2006.

3. Federal Rule of Civil Procedure 26(b)(2)(i) places limits on “discovery sought that is obtainable from some other source that is more convenient”. The rule goes on to provide that when “the burden or expense of proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties’ resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues”, the Court may further limit discovery requests. Federal Rules of Civil Procedure 26(b)(2)(iii).

4. Defendant, Dr. Sylvia Foster, will respond to any written requests for admission or written interrogatories submitted by Lewis. Given Lewis’ *in forma pauperis* status, it is clear that he would not be able to hire a court reporter for the depositions that he desires. Lewis can obtain the same information that he seeks from the Defendants through interrogatories and request for admissions without the costs associated with depositions and without the transportation and security issues raised by his request to travel to the federal courthouse.

5. Defendant has already provided a Response to Lewis’ Motion for Discovery”, as well as substantial document production. Lewis’ subpoena requests is not necessary to his ability to conduct discovery against Dr. Foster to proceed with his excessive force claim.

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Cynthia G. Beam, Esquire

Cynthia G. Beam, Esquire

Delaware State Bar I.D. No. 2565

1001 Jefferson Plaza, Suite 202

Wilmington, DE 19801

(302) 652-3611

Attorney for Defendant Dr. Sylvia Foster

Dated: September 26, 2006



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,	)	
Plaintiff,	)	
v.	)	
SYLVIA FOSTER, KATHYRN	)	C.A. No.: 04-1350 (GMS)
SHENEMAN, MICHAEL TALMO,	)	
DIANE STACHOWSKI, HELEN	)	
HANLON, MARGERET WILSON,	)	
MALE NURSE, DONNA LAWRENCE,	)	
GLORIA BANKS, FLORENCE SCOTT	)	
COBB, LANCE SAPERS, DAVE	)	
MOFFITT, R. GRAY, C. OATS, ROSE	)	
ARES, PAT RILEY, DR. OVRESHI,	)	
CURTIS CORNISH, KAREN	)	
CHAMBERLIN, SEGAL J., TANYA	)	
WILSON, J. CONYER, MR. JOHNSON,	)	
JOHN JOE,	)	
Defendants.	)	

**ORDER**

WHEREAS, Defendant, Dr. Sylvia Foster, having requested a Motion for Protective Order pursuant to Federal Rule of Civil Procedure 16; and

WHEREAS, there being good cause shown for the granting of such motion;

IT IS HEREBY ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2006, that Defendant Dr. Sylvia Foster's Motion for Protective Order is granted. Defendant is not required to appear at the District Court on October 11, 2006 as directed by Plaintiff. Defendant shall respond to interrogatories and request for admission properly filed by Plaintiff within the discovery period previously set forth by this Court's scheduling order.

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Gregory M. Sleet  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,	)	
Plaintiff,	)	
v.	)	
SYLVIA FOSTER, KATHYRN	)	C.A. No.: 04-1350 (GMS)
SHENEMAN, MICHAEL TALMO,	)	
DIANE STACHOWSKI, HELEN	)	
HANLON, MARGERET WILSON,	)	
MALE NURSE, DONNA LAWRENCE,	)	
GLORIA BANKS, FLORENCE SCOTT	)	
COBB, LANCE SAPERS, DAVE	)	
MOFFITT, R. GRAY, C. OATS, ROSE	)	
ARES, PAT RILEY, DR. OVRESHI,	)	
CURTIS CORNISH, KAREN	)	
CHAMBERLIN, SEGAL J., TANYA	)	
WILSON, J. CONYER, MR. JOHNSON,	)	
JOHN JOE,	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify on this 26<sup>th</sup> day of September, 2006 that a true and correct copy of Defendant Dr. Sylvia Foster's Motion for Protective Order has been served electronically and/or by first class mail, postage prepaid, to the following:

Jimmie Lewis  
SBI#506622  
1181 Paddock Road  
Delaware Correctional Center  
Smyrna, DE 19977

Gregory E. Smith  
Deputy Attorney General  
820 North French Street, 7<sup>th</sup> Floor  
Carvel State Office Building  
Wilmington, DE 19801

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Cynthia G. Beam, Esquire

Cynthia G. Beam, Esquire  
Delaware State Bar I.D. No. 2565  
1001 Jefferson Plaza, Suite 202  
Wilmington, DE 19801  
(302) 652-3611  
Attorney for Defendant Dr. Sylvia Foster

Dated: September 26, 2006

83

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS, )  
Plaintiff, )  
v. )  
SYLVIA FOSTER, KATHYRN )  
SHENEMAN, MICHAEL TALMO, )  
DIANE STACHOWSKI, HELEN )  
HANLON, MARGERET WILSON, )  
MALE NURSE, DONNA LAWRENCE, )  
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MOFFITT, R. GRAY, C. OATS, ROSE )  
ARES, PAT RILEY, DR. OVRESHI, )  
CURTIS CORNISH, KAREN )  
CHAMBERLIN, SEGAL J., TANYA )  
WILSON, J. CONYER, MR. JOHNSON, )  
JOHN JOE, )  
Defendants. )

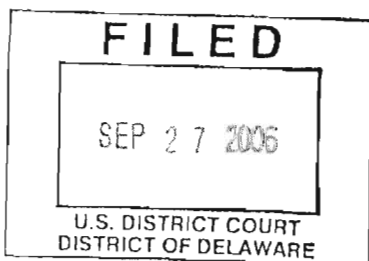
C.A. No.: 04-1350 (GMS)


ORDER

WHEREAS, Defendant, Dr. Sylvia Foster, having requested a Motion for Protective Order pursuant to Federal Rule of Civil Procedure 16; and

WHEREAS, there being good cause shown for the granting of such motion;

IT IS HEREBY ORDERED this 27<sup>th</sup> day of Sept, 2006, that Defendant Dr. Sylvia Foster's Motion for Protective Order is granted. Defendant is not required to appear at the District Court on October 11, 2006 as directed by Plaintiff. Defendant shall respond to interrogatories and request for admission properly filed by Plaintiff within the discovery period previously set forth by this Court's scheduling order.



  
\_\_\_\_\_  
Gregory M. Sleet  
United States District Judge

UM Jimmie Lewis  
SBI# 506622 UNIT D-U-2  
DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977



CLERK OF THE COURT (Gms)  
UNITED STATES DISTRICT COURT  
844 N. KING ST, LOCKBOX 18  
WILMINGTON, DELAWARE  
19801

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